

DECEMBER 6, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**KIMON WHEELER;
DEMETRIUS HARRIS; and
CHRISTOPHER HARRIS;**

Plaintiffs,

vs.

**CITY OF CHICAGO;
Chicago Police Officers
ALEJANDRO VARGAS, Star 14981;
ALFRED ROBINSON, Star 7060;
KEVIN SMITH, Star 14648;
PETERSON POHL, Star 6582;
JOSE ESTRADA, Star 11109;
LAWRENCE AIKIN, Star 4088;
RICHARD ALGHINI, Star 14603;
DAVE OSBORN, Star 18800; and
ROBERT ECONOMOS, Star 15375;**

Defendants.

No.

Judge

Magistrate Judge

07 C 6880

**JUDGE COAR
MAGISTRATE JUDGE VALDEZ**

Jury Demand

COMPLAINT

1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983, and the Fourth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction for Plaintiff's federal claims is based on 28 U.S.C. §§ 1331 and 1343(a).

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that the claims arose in this district as alleged below.

Parties

4. Plaintiffs are citizens of the United States, and residents of Chicago, Illinois.

5. Defendant police officers are duly appointed and sworn Chicago police officers.

At all times relevant to this Complaint, the Defendant-Officers were acting in the course and scope of their employment, and under color of state law, ordinance and/or regulation.

6. The Defendant-Officers are sued in their individual capacities.

7. The CITY OF CHICAGO is a municipal corporation, duly incorporated under the laws of the State of Illinois, and is the employer and principal of the Defendant-Officers.

Facts

8. On or about December 21, 2005, at about 3:00 a.m., Plaintiffs were at a nightclub, The Buzz, located at 308 West Erie Street in Chicago.

9. While the Plaintiffs were in The Buzz, there was a physical altercation close to where the Plaintiffs were standing.

10. Security grabbed the Plaintiffs and other individuals close to the altercation and escorted them out of The Buzz.

11. Defendant-Officers were outside The Buzz.

12. After the Plaintiffs were taken outside, a Defendant-Officer asked Plaintiff CHRISTOPHER HARRIS for his identification.

13. CHRISTOPHER told the Defendant-Officer that his identification was in his car.

14. CHRISTOPHER walked towards his car.

15. Defendant ESTRADA tripped CHRISTOPHER and then tackled him to the ground.

16. Once CHRISTOPHER was on the ground, Defendants ESTRADA and AIKIN sprayed CHRISTOPHER with OC spray.

17. Defendants ESTRADA, AIKIN and ROBINSON then beat, kicked, and punched CHRISTOPHER.

18. While CHRISTOPHER was being beaten by Defendants ESTRADA, AIKIN and ROBINSON, Plaintiff DEMETRIUS HARRIS asked the officers what was going on.

19. Defendants ALGHINI, SMITH, ROBINSON, and BRENNAN grabbed DEMETRIUS, slammed him into a car, then choked him.

20. DEMETRIUS was handcuffed and placed into the back of a police car.

21. Plaintiff KIMON WHEELER watched as the Defendant-Officers beat DEMETRIUS and CHRISTOPHER.

22. While watching, a Defendant-Officer pointed at KIMON and said "get him."

23. KIMON attempted to get away from the scene but was tackled by Defendants VARGAS, POHL, and ROBINSON.

24. Defendants VARGAS, POHL, ROBINSON, OSBORN, and ECONOMOS then beat, kicked, and punched KIMON.

25. KIMON was handcuffed and placed into the rear of a squadrol.

26. Plaintiffs were transported to the 18th District police station.

27. Defendant-Officers transported KIMON to Lincoln Park Hospital for medical attention.

28. CHRISTOPHER was charged with one count of battery and three counts of resisting arrest.

29. DEMETRIUS was charged with three counts of resisting arrest.

30. KIMON was charged with one count of battery and one count of resisting arrest.

31. Plaintiffs' charges were dismissed at the first court date on February 16, 2006.

32. Each individual Defendant-Officer acted willfully, wantonly, maliciously, oppressively, and with a conscious disregard and deliberate indifference to Plaintiffs' rights.

33. As a direct and proximate result of the acts of the Defendants described above, Plaintiffs have suffered and continue to suffer damages including loss of physical liberty, emotional distress, physical pain and suffering, mental anguish and humiliation, and special damages including medical expenses.

COUNT I
(42 U.S.C. § 1983 – Excessive Force)

34. Plaintiff CHRISTOPHER HARRIS realleges paragraphs 1 through 33 as if fully set forth herein.

35. The Defendants ESTRADA, AIKIN and ROBINSON violated Plaintiff's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, Plaintiff CHRISTOPHER HARRIS asks that this Honorable Court:

- a) Enter judgment against said Defendants;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT II
(42 U.S.C. § 1983 – Excessive Force)

36. Plaintiff DEMETRIUS HARRIS realleges paragraphs 1 through 33 as if fully set forth herein.

37. The Defendants ALGHINI, SMITH, ROBINSON, and BRENNAN violated Plaintiff's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, Plaintiff DEMETRIUS HARRIS asks that this Honorable Court:

- a) Enter judgment against said Defendants;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT III
(42 U.S.C. § 1983 – Excessive Force)

38. Plaintiff KIMON WHEELER realleges paragraphs 1 through 33 as if fully set forth herein.

39. The Defendants VARGAS, POHL, ROBINSON, OSBORN, and ECONOMOS violated Plaintiff's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, Plaintiff KIMON WHEELER asks that this Honorable Court:

- a) Enter judgment against said Defendants;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT IV
(42 U.S.C. § 1983 – Failure to Intervene)

40. Plaintiffs reallege paragraphs 1 through 33 as if fully set forth herein.

41. While Plaintiffs were subjected to excessive force as described above, Defendant-Officers had an opportunity to intervene, but chose not to intervene.

42. Defendant-Officers were deliberately indifferent to Plaintiffs' right to be free from excessive and unreasonable force.

WHEREFORE, Plaintiffs ask that this Honorable Court:

- a) Enter judgment against Defendant-Officers;
- b) Award compensatory and punitive damages, as determined at trial;
- c) Award attorneys' fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT V
(Indemnification Claim pursuant to 745 ILCS 10/9-102)

43. Plaintiffs reallege all of the above paragraphs and counts as if fully set forth herein.

44. The acts of the individual Defendant-Officers described in the above claims were willful and wanton, and committed in the scope of employment.

45. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant CITY OF CHICAGO is liable for any judgments in this case arising from the actions of the Defendant-Officers.

WHEREFORE, Plaintiffs ask that this Honorable Court order Defendant CITY OF CHICAGO to indemnify the Defendant-Officers for any judgment entered in this case arising from their actions.

Plaintiffs demand trial by jury

Respectfully submitted,

/s/Lawrence V. Jackowiak
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